

# Exhibit A

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MISSOURI PRIMATE FOUNDATION,	)	
CONNIE BRAUN CASEY, individually,	)	
ANDREW SAWYER, individually,	)	
and JANE DOE 2,	)	
	)	
Plaintiffs and Counterclaim	)	
Defendants	)	
	)	
vs.	)	No. 4:16-cv-02163
	)	
PEOPLE FOR THE ETHICAL	)	
TREATMENT OF ANIMALS, INC. and	)	
ANGELA SCOTT a/k/a ANGELA	)	
G. CAGNASSO, individually,	)	
	)	
Defendants and Counterclaim	)	
Plaintiffs.	)	

**PLAINTIFFS'/COUNTERCLAIM DEFENDANTS'  
ANSWER AND AFFIRMATIVE DEFENSES**

Plaintiffs/Counterclaim Defendants Missouri Primate Foundation, Connie Braun Casey, Andrew Sawyer, and Jane Doe 2 (collectively “Plaintiffs” or “Counterclaim Defendants”), by and through counsel, Goldberg Segalla LLP, and pursuant to Federal Rule of Civil Procedure 8 state as follows for their answer and affirmative defenses to Defendants/Counterclaim Plaintiffs (“Defendants” or “Counterclaim Plaintiffs”) counterclaim:

**ANSWER**

1. Counterclaim Defendants admit that Counterclaim Plaintiffs state this is a citizen suit brought pursuant to Section 11(g)(1)(A) of the Endangered Species Act (“ESA”). Except as so expressly stated, Counterclaim Defendants deny the allegations in this paragraph.

2. Counterclaim Defendants admit Missouri Primate Foundation (“MPF”) is a facility that houses chimpanzees.

3. Counterclaim Defendants admit that chimpanzees are social and intelligent animals. Except as so stated, and since no citation is provided regarding the allegations set forth in this paragraph, Counterclaim Defendants denies said allegations and puts Counterclaim Plaintiffs to their proof.

4. Counterclaim Defendants admit that the counterclaim speaks for itself regarding the entities sued in this matter. Counterclaim Defendants deny the remaining allegations contained in this paragraph.

### **JURISDICTION AND VENUE**

5. Counterclaim Defendants admit that this court has jurisdiction.

6. Counterclaim Defendants MPF, Casey and Sawyer admit they received a Notice of Violation (ECF #1-1) in November 2016; Counterclaim Defendant Jane Doe 2 (who all Counterclaim Defendants assume is alleged to be the owner of a chimpanzee also known as Chloe herein) denies that he received an alleged Notice of Violation from Counterclaim Plaintiffs PETA or Scott. Counterclaim Defendants are without sufficient information to admit or deny the remaining allegations in this paragraph and therefore deny the same.

7. Counterclaim Defendants lack sufficient information to admit or deny the allegations in this paragraph except to state that to their knowledge, no criminal prosecution by the Secretary of the Interior is pending against Counterclaim Defendants. Except as so expressly stated, Counterclaim Defendants deny the allegations contained in this paragraph.

8. Counterclaim Defendants admit venue is proper.

### **PARTIES**

9. Counterclaim Defendants state that PETA contends it is a Virginia non-stock corporation pursuant to Section 501(c)(3) of the Internal Revenue Code with its headquarters in

Norfolk, Virginia, but Counterclaim Defendants are without sufficient information to either admit or deny the same. Counterclaim Defendants aver that PETA is a militant, animal activist group which masquerades as a charitable organization the true role of which is to fundraise in order to promote its extremist ideology. Except as so expressly stated, Counterclaim Defendants deny the remaining allegations contained in this paragraph.

10. Counterclaim Defendants deny the allegations contained in paragraph 10.

11. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny they committed any “unlawful” activities. Counterclaim Defendants lack sufficient information regarding any resources expended by PETA and, therefore, deny same.

12. Paragraph 12 contains legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny any “unlawful and inhumane conditions.” Counterclaim Defendants lack sufficient information regarding any resources expended by PETA and, therefore, deny same.

13. Paragraph 13 contains hypothetical, speculative statements and legal conclusions, to which no response is required. To the extent that a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

14. Counterclaim Defendants are without sufficient knowledge regarding resources expended by PETA and, therefore, deny same. Further, this paragraph contains hypothetical, speculative statements and legal conclusions to which no response is required. To an extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

**Counterclaim Plaintiff Angela Scott**

15. Counterclaim Defendants admit Angela Scott for short periods of time was a former volunteer at MPF. Counterclaim Defendants lack sufficient information regarding the remaining allegations in this paragraph and, therefore, deny the same.

16. Counterclaim Defendants MPF and Casey state that prior to working at MPF, Angela Scott stated she had worked at a research laboratory; the remaining Counterclaim Defendants were not privy to that statement. Counterclaim Defendants are without sufficient information to admit or deny the remaining allegations in this paragraph and, therefore, deny the same.

17. Counterclaim Defendants admit that for short periods of time Ms. Scott sporadically volunteered at MPF and occasionally assisted Counterclaim Defendant Casey with care of certain chimpanzees. Further responding, Counterclaim Defendants MPF and Casey state that Ms. Scott spent a portion of her time as a volunteer taking care of the grandfather of the Counterclaim Defendant Casey's ex-husband away from MPF. Counterclaim Defendants lack sufficient knowledge to admit or deny the remaining allegations and deny same.

18. Counterclaim Defendants lack sufficient knowledge to admit or deny the allegations in paragraph 18 and therefore deny the same and put Counterclaim Plaintiffs to their proof.

19. Counterclaim Defendants lack sufficient knowledge to admit or deny the allegations in paragraph 19 and therefore deny same.

20. Counterclaim Defendants deny the allegations contained in this paragraph.

21. Counterclaim Defendants deny the allegations contained in this paragraph.

22. Counterclaim Defendants deny the allegations contained in this paragraph.

23. Counterclaim Defendants deny the allegations contained in this paragraph.

24. Paragraph 24 contains hypothetical, speculative statements and legal conclusions, to which no response is required. Counterclaim Defendants deny that Ms. Scott has sustained any injuries. Except as so expressly stated, and to the extent that a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

#### **Counterclaim Defendants**

25. Admit.

26. Admit. Further responding, Counterclaim Defendants further state that in addition to Ms. Casey, several family members, volunteers and owners of certain chimpanzees also assist in the care of the chimpanzees present at MPF.

27. Admit all of the allegations of paragraph 27 except to state that the chimpanzee also known as Joey is no longer present at MPF.

28. Admit that the chimpanzee also known as Chloe has an owner who Counterclaim Defendants claim to be referred to in the Counterclaim as Jane Doe 2.

#### **STATUTORY BACKGROUND**

29. Counterclaim Defendants admit that the Endangered Species Act (“ESA”) speaks for itself.

30. Counterclaim Defendants admit that the ESA and Code of Federal Regulations (“CFR”) are enactments which speak for themselves.

31. Counterclaim Defendants admit that the ESA speaks for itself.

32. Counterclaim Defendants admit that the ESA speaks for itself.

33. Counterclaim Defendants admit that the ESA and CFR speak for themselves.

34. Counterclaim Defendants admit that the ESA speaks for itself.

35. Counterclaim Defendants admit that the ESA speaks for itself.

### **GENERAL ALLEGATIONS**

36. Counterclaim Defendants Casey and MPF admit certain non-human primates, including chimpanzees, gibbons, macaques and capuchins are present at MPF. Counterclaim Defendants deny that any baboons are present at MPF. Counterclaim Defendants MPF, Casey and Sawyer deny that Mr. Sawyer has a chimpanzee present at MPF.

37. Counterclaim Defendants Casey and MPF deny that they are taking endangered species under 16 U.S.C.A. §1539(a)(1)(A) or that they are required to possess a permit thereunder.

38. Counterclaim Defendants deny that MPF was open to the public for public tours in the past, but states that it was open by appointment only for small private group tours at certain times in the past. Counterclaim Defendants further state that at certain times in the past it sold certain animals and that some of those chimpanzees that have in the past been used by the entertainment industry. Except as so expressly stated, Counterclaim Defendants deny the remaining allegations contained in this paragraph and further that said allegations should be stricken from the Counterclaim and are the subject of a Motion to Strike filed contemporaneously herewith.

39. Counterclaim Defendants deny the allegations contained in this paragraph.

40. Counterclaim Defendants state that the allegations in this paragraph should be stricken from the Counterclaim and are the subject of a Motion to Strike filed contemporaneously herewith.

41. Counterclaim Defendants state that the allegations in this paragraph should be stricken from the Counterclaim and are the subject of a Motion to Strike filed contemporaneously herewith.

42. Denied.

43. Counterclaim Defendants admit that the Animal Welfare Act is a statutory enactment which speaks for itself. Moreover, the USDA Report referenced in this paragraph is a document speaks for itself.

### **The Chimpanzees**

44. Counterclaim Defendants admit there to the best of their present recollection there were approximately sixteen (16) chimpanzees at MPF at the time of the Notice.

45. Denied.

46. and footnote 1. Counterclaim Defendants admit that three chimpanzees were transferred to another facility as a result of lengthy negotiations that began before the Notice was sent or received. Except as so expressly stated, the remaining allegations contained in this paragraph are denied.

47. Counterclaim Defendants admit that the then owner of a chimpanzee also known as Allie was transferred by her owner from MPF to a different location. Except as so expressly stated, Counterclaim Defendants put Counterclaim Plaintiffs to their proof.

48. Counterclaim Defendant Sawyer admits he had a chimpanzee also known as Joey that was transferred from MPF to a new location. Except as so expressly stated, Counterclaim Defendants put Counterclaim Plaintiffs to their proof.

49. The chimpanzee also known as Joey is currently eleven years of age. That chimpanzee was born in Texas, bought as a pet with a valid USDA license, thereafter was kept in



Arizona and then in Nevada, and taken to MPF in approximately 2013. The chimpanzee also known as Joey had allergies and needed to be fed alone at MPF due to the possibilities of cross-contamination of food, but was otherwise allowed to socialize, interact and play with other chimpanzees. Except as so expressly stated, Counterclaim Defendants deny the remaining allegations contained in this paragraph.

50. Counterclaim Defendants MPF and Casey admit that a chimpanzee also known as Connor is approximately twenty-one years old, born at MPF, and appeared in two movies and on greeting cards and that at one time nipped Ms. Casey's ex-husband on the knee which required no hospitalization. Counter Defendants MPF and Casey deny the remaining allegations contained in this paragraph. Counter defendants Sawyer and Jane Doe 2 are without sufficient knowledge to admit or deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

51. Counterclaim Defendants MPF and Casey admit that a chimpanzee also known as Tonka is approximately twenty-two years old and was brought to MPF around 2003 and that it appeared in some movies. Said Counter defendants deny that Alan Cumming developed a close relationship with Tonka as he has never been to MPF or called or written MPF or Ms. Casey about the animal. Counter Defendants MPF and Casey deny the remaining allegations contained in this paragraph. The remaining Counterclaim defendants are without sufficient knowledge to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

52. Counterclaim Defendants MPF and Casey admit that a chimpanzee also known as Mikayla is nine years old, it was fathered at MPF by Tonka, and that Mikayla was present at a few parties when it was approximately one year of age but not since. Except as so expressly

stated, Counterclaim Defendants are without sufficient knowledge to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

53. Counterclaim Defendants MPF and Casey state that Chloe has an owner, is eight years old, was born at MPF, and was fathered by Tonka, but denies that Chloe was used at any parties. Except as so expressly stated, Counterclaim Defendants are without sufficient knowledge to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

54. Counterclaim Defendants MPF and Casey deny that a chimpanzee also known as Candy is approximately thirty to thirty-one years of age, was born at MPF, Coby is the brother of Candy and another chimpanzee also known as Cooper. Except as so expressly stated, Counterclaim Defendants are without sufficient knowledge to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

55. Counterclaim Defendants MPF and Casey deny that a chimpanzee also known as Coby is around twenty years of age but state that it is approximately thirty-five to thirty-six years of age, was born at MFP, was sold to a private photographer in Florida when it was approximately two months old, and has since returned to MPF. All Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny the same and put Counterclaim Plaintiffs to their proof.

56. Counterclaim Defendants MPF and Casey admit the allegations contained in this paragraph with respect to a chimpanzee also known as Cooper. The remaining Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny the same and put Counterclaim Plaintiffs to their proof.

57. Counterclaim Defendants MPF and Casey admit a chimpanzee also known as Kerry is around eleven years old, born at MPF, and later returned. Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny same and put Counterclaim Plaintiffs to their proof.

58. Counterclaim Defendants MPF and Casey admit the allegations contained in this paragraph with respect to a chimpanzee also known as Crystal. Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny same.

59. Counterclaim Defendants MPF and Casey state that the chimpanzee Kimmy is around fifty-six years of age which had no teeth when it arrived at MPF. Kimmy in the past was involved in a single chimpanzee entertainment act for private parties. The remaining Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny the same and put Counterclaim Plaintiffs to their proof.

60. Counterclaim Defendants MPF and Casey admit Tammy is approximately thirty-two years old. The remaining Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny the same and put Counterclaim Plaintiffs to their proof

61. Counterclaim Defendants admit MPF obtained Tammy at ten years old. Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny same and put Counterclaim Plaintiffs to their proof.

**Counterclaim Defendants Take the Chimpanzees by Failing to Meet Their Fundamental Social, Physical, and Psychological Needs**

*Failure to Provide Necessary Social Contact*

62. The allegations contained in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

63. Counterclaim Defendants state that Defendant Casey is partly responsible for the handling and groupings of the chimpanzees at MPF. Further responding Counterclaim Defendants MPF, Casey and Sawyer state that a chimpanzee also known as Joey was brought to and relocated from MPF. Except as so expressly stated, the Counterclaim Defendants lack specific knowledge of the remaining allegations in this paragraph and, therefore, deny the allegations contained in this paragraph.

64. Counterclaim Plaintiffs provide no citations or other references in support of to their statements regarding chimpanzee society, and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Plaintiffs to their proof.

65. Counterclaim Plaintiffs provide no citations or other references to support their statements regarding chimpanzee behavior and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Plaintiffs to their proof.

66. Counterclaim Plaintiffs provide no citations or other references to support their statements regarding chimpanzee behavior and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Plaintiffs to their proof.

67. Counterclaim Defendants state that the referenced USDA Report speaks for itself so that no response is required. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

68. Counterclaim Plaintiffs provide no citations or other references to support their statements regarding chimpanzee behavior and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Plaintiffs to their proof.

69. Counterclaim Plaintiffs provide no citations or other references to support their statements regarding chimpanzee behavior and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Plaintiffs to their proof.

70. Counterclaim Defendants state that the referenced USDA Report speaks for itself so that no response is required. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

71. Counterclaim Defendants state that MPF is not a zoo. Further responding, Counterclaim Defendants state the Association of Zoos and Aquariums (“AZA”) is a zoological accrediting body and its Chimpanzee Care Manual speaks for itself so that no response is required. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

72. Denied.

73. Denied.

74. and footnote 2. Denied.

*Failure to Provide Necessary Spacious and Complex Environments*

75. The allegations contained in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

76. Counterclaim Defendant Casey admits she is partly responsible for housing and enrichment at MPF, along with some of her family, volunteers and certain owners of chimpanzees located at MPF. Counterclaim Defendants Sawyer and Jane Doe 2 state they, in addition to others referenced above, are also responsible for Joey and Chloe, respectively. Except as so expressly stated, Counterclaim Defendants deny the remaining allegations contained in this paragraph.

77. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

78. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph.

79. Counterclaim Defendants state the AZA Chimpanzee Care Manual speaks for itself so that no response is required. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

80. Counterclaim Defendants state the AZA Chimpanzee Care Manual speaks for itself so that no response is required. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

81. Denied.

82. Counterclaim Defendant Counterclaim Defendants admit that chimpanzees are social and intelligent animals. Except as so stated, and since no citation is provided regarding the allegations set forth in this paragraph, Counterclaim Defendants denies said allegations and puts Counterclaim Plaintiffs to their proof.

83. Counterclaim Defendants admit the USDA Report speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

84. Counterclaim Defendants admit the AZA Manual speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

85. Counterclaim Defendants admit the AZA Manual speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

86. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards and the AZA Manual are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

87. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards and the AZA Manual are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

88. Counterclaim Defendants state that they had/have an appropriate enrichment program for their animals. Except as so expressly stated, they deny the allegations contained in paragraph 88 and put Counterclaim Plaintiffs to their proof.

89. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

90. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

91. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

92. Denied.

93. Denied.



94. Denied.

95. Denied.

96. Denied.

97. Counterclaim Defendants admit the USDA Report speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof. Counterclaim Defendants deny the remaining allegations contained in paragraph 97.

98. Denied.

*The Chimpanzees Are Actually Injured and Are Likely to Be Further Injured by Being Deprived of Adequate Social Groups, Space, and Enrichment*

99. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

100. Denied.

101. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

102. and footnote 3. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof.

103. Denied.

104. Denied.

105. Denied.

**Counterclaim Defendants Take the Chimpanzees by Confining Them to a Dangerous and Unsanitary Environment**

106. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny the same.

107. Counterclaim Defendants state that Ms. Casey is partially responsible for maintaining the enclosures at MPF, along with other family members and volunteers. Except as so expressly stated, Counterclaim Defendants deny the remaining allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

108. Counterclaim Defendants state that applicable USDA regulations speak for themselves. Except as so expressly stated, Counterclaim Defendants put Counterclaim Plaintiffs to their proof.

109. Counterclaim Defendants state that applicable USDA regulations speak for themselves. Except as so expressly stated, Counterclaim Defendants put Counterclaim Plaintiffs to their proof.

110. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

111. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not

binding on Counterclaim Defendants. Moreover, to the extent said Standards are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

112. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof. Further responding, Counterclaim Defendants Casey and MPF state that any USDA citations speak for themselves so that no response is required. The remaining allegations and legal conclusions contained in this paragraph are denied.

113. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof. Further responding, Counterclaim Defendants Casey and MPF state that any USDA warning letter speaks for itself so that no response is required. The remaining allegations and legal conclusions contained in this paragraph are denied.

114. Counterclaim Plaintiffs provide no citations or other references to support their statements and, therefore, Counterclaim Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, deny the same and put Counterclaim Plaintiffs to their proof. Further responding, Counterclaim Defendants Casey and MPF state that any USDA warning letter speaks for itself so that no response is required. The remaining allegations and legal conclusions contained in this paragraph are denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Counterclaim Defendants deny the same.

**Counterclaim Defendants Take the Chimpanzees by Restricting Them to a Dangerously Unhealthy Diet**

120. Counterclaim Defendants state that MPF is not a zoo and therefore the AZA Manual is irrelevant to any issue in this case. Further responding, Counterclaim Defendants state that the AZA Manual speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

121. Counterclaim Defendant Casey states that she is partly responsible for feeding the chimpanzees at MPF, along with other family members and volunteers.

122. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards and the AZA Manual are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

123. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards are written they speak for themselves so that no response is required. To the extent a response is required,

Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

124. Denied.

125. Denied.

126. Denied.

127. Denied.

128. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same.

**Counterclaim Defendants Take the Chimpanzees by Failing to Provide Them with Adequate Preventative and Emergency Veterinary Care**

129. Denied.

130. Denied.

131. Counterclaim Defendants state the GFAS Standards are voluntary, self-promoting standards which are irrelevant to the issues in this case, do not have the force of law and are not binding on Counterclaim Defendants. Moreover, to the extent said Standards are written they speak for themselves so that no response is required. To the extent a response is required, Counterclaim Defendants deny the allegations contained in this paragraph and put Counterclaim Plaintiffs to their proof.

132. Counterclaim Defendants state that MPF is not a zoo and therefore the AZA Manual is irrelevant to any issue in this case. Further responding, Counterclaim Defendants state that the AZA Manual speaks for itself. To the extent a response is required, Counterclaim Defendants deny the same and put Counterclaim Plaintiffs to their proof.

133. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Unlawful Take of Endangered Chimpanzees**

134. Counterclaim Defendants restate and incorporate its responses to the above allegations as though specifically set forth herein.

135. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same.

136. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same. Additionally, Counterclaim Defendants state the statutes cited by Counterclaim Plaintiffs are legislative enactments which speak for themselves so that no response is required.

WHEREFORE, Counterclaim Defendants respectfully request the Court deny Counterclaim Plaintiffs its requested relief.

### **COUNT TWO**

#### **Unlawful Possession of Taken Chimpanzees**

137. Counterclaim Defendants restate and incorporate its responses to the above allegations as though specifically set forth herein.

138. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same. Additionally, Counterclaim Defendants state the statutes cited by Counterclaim Plaintiffs are legislative enactments which speak for themselves so that no response is required.

139. Denied. Further responding, to the extent this paragraph contains legal conclusions, no response is required. To the extent a response is required, Counterclaim Defendants deny same. Additionally, Counterclaim Defendants state the statutes cited by Counterclaim Plaintiffs are legislative enactments which speak for themselves so that no response is required.

WHEREFORE, Counterclaim Defendants respectfully request the Court deny Counterclaim Plaintiffs its requested relief.

### **AFFIRMATIVE DEFENSES**

Pleading hypothetically, and in the alternative, Counterclaim Defendants plead the following defenses, affirmative defense and objections to the Counterclaim:

1. Counterclaim Plaintiffs have failed to state a claim upon which relief may be granted.
2. Counterclaim Plaintiff Angela Scott lacks standing to bring this claim because she has no actual injury which is not based on speculation or conjecture.
3. Counterclaim Plaintiffs' claims are barred by the doctrine of unclean hands.
4. Counterclaim Plaintiffs' claims are barred by the doctrine of laches.

5. The Court lacks jurisdiction over Plaintiffs' claims, including for the reasons set forth in Defendants' pending Motion to Dismiss [ECF No. 11], which is incorporated herein by reference.

6. The Counterclaim of Counterclaim Plaintiffs should be dismissed on the grounds that Plaintiffs' original Petition filed herein is the first filed action and takes priority over the Counterclaim of Counterclaim Plaintiffs under the doctrine of the first filed action.

7. The Counterclaim of Counterclaim Plaintiffs should be dismissed on the grounds that Plaintiffs' original Petition filed herein is the first filed action and takes priority over the Counterclaim of Counterclaim Plaintiffs under the doctrine of judicial economy.

8. The Counterclaim of Counterclaim Plaintiffs is based upon out-of-date information, speculation, conjecture and bootstrapping, and should be dismissed.

9. The alleged "strong connection" to animals (Counterclaim at Par. 16), "strong relationship... to the particular chimpanzees" (Counterclaim at par. 18), and "personal emotional attachment to the particular chimpanzees" (*Id.*) are speculative, based on conjecture, and are unsupported by the facts of this case.

10. The reasons for Counterclaim Plaintiff Scott working "without pay" (Counterclaim at par. 19) is because by her own admission she "volunteered" at MPF (Counterclaim at par. 17).

11. Pars. 40 and 41 of the Counterclaim of Counterclaim Plaintiffs should be stricken by the Court on the grounds that their references to tax liens are irrelevant and immaterial to any issue in this case and impertinent and scandalous pursuant to Rule 12.(f) of the Fed.R.Civ.Proc.

12. Par. 51 of the Counterclaim of Counterclaim Plaintiffs should be stricken on the grounds that its references to Alan Cummings constitute improper attempts to introduce the



dated, uninformed, speculative alleged opinions of a non-party into this case, and to prop up Counterclaim Plaintiffs' alleged standing to bring this case.

13. The Counterclaim of Counterclaim Plaintiffs should be dismissed by virtue of their own allegations set forth in pars. 71 of their Counterclaim, as MPF is not a zoo

14. The Counterclaim of Counterclaim Plaintiffs should be dismissed by virtue of their own allegations set forth in pars. 77 and 78 of their Counterclaim, as to the knowledge of Counterclaim Defendants, no sanctuary accredited by the GFAS permit a chimpanzee to range up to 333 square kilometers.

15. Pars. 43, 67, 70, 83, 97, 98, 101-102 and 102 footnote 3, 106-199 of the Counterclaim of Counterclaim Plaintiffs should be dismissed because the USDA has the sole and pre-emptive authority over enforcement of the Animal Welfare Act and USDA has not brought nor is there pending any enforcement or other legal action to revoke the license of Counterclaim Defendants MPF or Casey, as admitted by Counterclaim Plaintiffs in par. 115 of the Counterclaim.

16. Par. 116 of the Counterclaim should be stricken or dismissed because the USDA has advised Counterclaim Defendants MPF and Casey, after repainting the enclosures at MPF, that they do not need to worry about any remaining or new peeling paint.

17. Counterclaim Defendants reserve the right to raise additional defenses as they may become known through discovery or otherwise revealed during the pendency of this action.

WHEREFORE, Counterclaim Defendants respectfully request the Court deny Counterclaim Plaintiffs its requested relief.

Date: July 20, 2017

Respectfully submitted,

**GOLDBERG SEGALLA LLP**

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Attorneys for Plaintiffs/Counterclaim Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 2017, I electronically filed the foregoing United States District Court – Eastern District of Missouri by using the CM/ECF system.

/s/ Kurtis B. Reeg